

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

Case No. 7:23-CV-01525-M

RASHAD VONTE MOORE,

Plaintiff,

v.

NEW HANOVER COUNTY JAIL,

Defendant.

ORDER

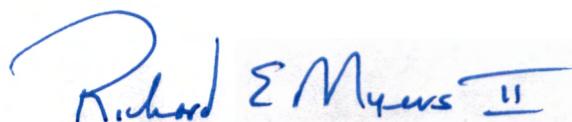
This matter comes before the court on for review of the Order and Recommendation (the “Recommendation”) filed on January 12, 2024, by Magistrate Judge Robert T. Numbers, II, in accordance with 28 U.S.C. § 636(b). DE 19. In the Recommendation, Judge Numbers recommends that Defendant’s motion to dismiss be granted because Plaintiff cannot maintain an action under 42 U.S.C. § 1983 (which authorizes suits against “persons”) against the New Hanover County Jail, an inanimate object. *Id.* at 3. The Recommendation, which includes instructions and a deadline for objections, was served on the parties on January 12, 2024. *See id.* at 7. Plaintiff timely objected to the Recommendation, and “assert[s] that the New Hanover Couty [sic] Jail, as an entity acting under color of state law, may be liable for constitutional violations under Section 1983.” DE 20 at 1.

The court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge,” 28 U.S.C. § 636(b), but need only “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made,” *id.* The court has reviewed the record and made a de novo determination which is in accord with the Recommendation. Contrary to Plaintiff’s

assertion, “[i]t is well settled that only persons may act under color of state law, . . . buildings, facilities, and grounds do not act under color of state law.” *Brownlee v. Williams*, No. 2:07-CV-0078, 2007 WL 904800, at *2 (D.S.C. Mar. 22, 2007) (collecting cases) (internal quotation marks omitted); *see also Brooks v. Pembroke City Jail*, 722 F. Supp. 1294, 1301 (E.D.N.C. 1989) (holding that “jail is not a person amenable to suit”); *accord Martin v. Davison*, 322 F. Supp. 318, 325 (W.D. Pa. 1971). The court therefore adopts the Recommendation in full.

The Recommendation [DE 19] is hereby ADOPTED, and Defendant’s motion to dismiss [DE 14] is GRANTED. Plaintiff’s Complaint is DISMISSED WITHOUT PREJUDICE to Plaintiff re-raising his claims against the natural persons who committed the alleged constitutional violations in the Complaint. *See* 42 U.S.C. § 1983.

SO ORDERED this 15th day of February, 2024.



RICHARD E. MYERS II
CHIEF UNITED STATES DISTRICT JUDGE